

### **IN THE DRAWINGS**

Corrected drawings are supplied herewith.

In addition, amendments are proposed to FIGS. 2 and 4 and said drawing sheets are each labeled as "REPLACEMENT SHEET".

In each of FIGS. 2 and 4, a separate box (labeled 119) has been added entitled "Optional Out-of-Band Transmitter". Support may be found in the original written description, e.g. on page 7, lines 18-27.

Also, in each of FIGS. 2 and 4, switch 117 is shown as a 3-position switch, enabling line 117 to be coupled to audio sink 111 via terminal A; to both audio sinks 110 and 112 via terminal B; or just to audio sink 112 via terminal C. Support may be found in the original written description, e.g. in the paragraph beginning on page 5, line 28.

No new matter has been introduced by way of these proposed amendments to FIGS. 2 and 4. They are proposed in order to conform the drawings to the written description.

### **REMARKS**

This responds to the Office Action mailed on September 30, 2004.

Claims 1-6, 34-38, and 40 are amended. No claims are canceled or added by way of this amendment. As a result, claims 1-6 and 34-40 are now pending in this application.

For the convenience of the Examiner, Applicant's remarks concerning the claims will be presented in the same order in which the Examiner presented them in the Office Action.

#### **Amendments to Claims 1-6, 34-36, 38, and 40**

Claims 1-6, 34-36, 38, and 40 have been amended. No new matter has been introduced.

In independent claim 1, the subject matter previously recited in dependent claim 3 has been incorporated, except that "optimum" has been substituted for "available".

Dependent claim 2 has been amended by substituting "the geoposition source comprises a table stored in one of a programmable read only memory (PROM) device, a cellular phone, a cellular switching center, and an Internet site" for the previously recited language. Support for this amendment may be found, for example, in page 9, line 23 through page 10, line 14.

Dependent claim 3 has been amended by substituting "an out-of-band transmitter to transmit a channel selection signal comprising an optimum carrier frequency" for the previously recited language. Support may be found, for example, on page 7, lines 18-27.

Dependent claims 4 and 38 have been amended by substituting "one of" for "element from the group comprising".

Dependent claim 5 has been amended by substituting "optimum" for "available". Support may be found, for example, on page 7, lines 5-10.

Dependent claims 6, 36, and 40 have been amended by substituting "one of" for "equipment from the group comprising".

Independent claim 34 has been amended by adding "an out-of-band transmitter to transmit a channel selection signal comprising an available carrier frequency". Support may be found, for example, on page 7, lines 18-27.

Dependent claim 35 has been amended by substituting "the available carrier frequency" for "an available carrier frequency".

**Objections to Claims 4, 6, 36, 38, and 40**

Claims 4, 6, 36, 38, and 40 were objected to. The Examiner asserted that there is insufficient antecedent basis for “from the group” in these claims.

Accordingly, claims 4, 6, 36, 38, and 40 have each been amended to delete the phrase “from the group” and to substitute “one of”.

Applicant respectfully requests the Examiner to withdraw the objection to claims 4, 6, 36, 38, and 40.

**Rejection of Claims 1-6 and 34-40  
Under 35 U.S.C. §102(e)  
as Anticipated by Parsiokas**

Claims 1-6 and 34-40 were rejected under 35 U.S.C. §102(e) as being anticipated by Parsiokas (U.S. 2003/0060219). Applicant does not admit that Parsiokas is prior art and reserves the right to swear behind Parsiokas as provided for under 37 C.F.R. §1.131.

Parsiokas discloses an apparatus and method for transmitting audio signals from an auxiliary source such as a satellite broadcast receiver, CD, or cassette player to a radio receiver located, for example, in a vehicle, using a wireless link (see Abstract). It is noted, and the Examiner concedes, that Parsiokas fails to disclose a channel locator controller that includes a stored program digital computer, or a geoposition source coupled to the stored program digital computer to provide a geoposition to the stored program digital computer.

The rule under 35 U.S.C. §102 is well settled that “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131.

Parsiokas fails to disclose all of the structural elements recited in independent claims 1, 34, and 37 as amended.

Regarding independent claims 1 and 37, Parsiokas fails to disclose a channel locator controller that includes a stored program digital computer, or a geoposition source coupled to the stored program digital computer to provide a geoposition to the stored program digital computer.

Regarding independent claim 34, Parsiokas fails to disclose an out-of-band transmitter to transmit a channel selection signal comprising an available carrier frequency.

For the above reasons, independent claims 1, 34, and 37 should be found to be allowable over Parsiokas, and Applicant respectfully requests that the rejection of claims 1, 34, and 37 under 35 U.S.C. §102(e) as anticipated by Parsiokas be withdrawn.

Claims 2-6, which depend from claim 1 and incorporate all of the limitations therein, are also asserted to be allowable for the reasons presented above.

Claims 35-36, which depend from claim 34 and incorporate all of the limitations therein, are also asserted to be allowable for the reasons presented above.

Claims 38-40, which depend from claim 37 and incorporate all of the limitations therein, are also asserted to be allowable for the reasons presented above.

**Rejection of Claims 3, 4, 37, and 38**  
**under 35 U.S.C. §103(a) as Unpatentable**  
**over Parsiokas in view of Yee**

Claims 3, 4, 37, and 38 were rejected under 35 U.S.C. §103(a) as being unpatentable over Parsiokas in view of Yee et al. (U.S. 6,085,090).

Parsiokas was discussed above.

Yee discloses a communications device comprising a geolocation device (see Abstract). It will be noted that, contrary to the Examiner's assertion, Yee fails to disclose a stored program digital computer to store a database of optimum carrier frequencies arranged by geoposition. Specifically, Yee fails to mention any storage of optimum carrier frequencies. The citations within Yee that were mentioned by the Examiner, e.g. col. 3, lines 13-24, refer to a GPS unit translating ephemeris data from several satellites into a geoposition, and they do not describe storing a database of optimum carrier frequencies arranged by geoposition.

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, the prior art reference (or references when combined) must teach or suggest every limitation of the claim. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA, 1974). MPEP §2143.

The asserted combination of Parsiokas in view of Yee fails to teach or suggest all of the claim limitations present in independent claims 1 and 37, as amended, so a *prima facie* case of obviousness has not been established.

For the above reasons, claims 1 and 37 should be found to be allowable over any combination of Parsiokas and Yee. Accordingly, Applicant respectfully requests that the rejection of claims 3-4, which are dependent upon claim 1, should be withdrawn.

Similarly, Applicant respectfully requests that the rejection of claim 38, which is dependent upon claim 37, should be withdrawn.

#### **Additional Elements and Limitations**

Applicant considers additional elements and limitations of claims 1-6 and 34-40 to further distinguish over the cited references, and Applicant reserves the right to present arguments to this effect at a later date.

#### **Documents Cited But Not Relied Upon For This Office Action**

Applicant need not respond to the assertion of pertinence stated for the references cited but not relied upon by the Office Action, because these references are not made part of the rejections in this Office Action. Applicant is expressly not admitting to this assertion and reserves the right to address the assertion should it form part of future rejections.

**Conclusion**

Applicant respectfully submits that claims 1-6 and 34-40 are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney, Walter W. Nielsen (located in Phoenix, Arizona) at (602) 298-8920, or the below-signed attorney (located in Minneapolis, Minnesota) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date March 30, 2005

By Ann M. McCrackin  
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 30th day of March, 2005.

Anne M. Richards

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